**R E M A R K S**

Applicants cancel claim 2. Claims 1 and 3-53 remain pending in the application.

Applicants amend claim 1 to incorporate features that correspond to those of claim 2, and

amend claims 3, 5-40, 42-50, and 52-53 for formalistic changes. No new matter has been

added.

The Examiner objected to claims 49-50 as being of improper dependent form for

failing to further limit the subject matter of a previous claim. Applicants amend claims 49

and 50 to include different features, and respectfully submit that they further limit claim 6

with respective features.

The Examiner also objected to claims 48 and 52 for apparent informalities, which

Applicants correct by amendment.

In view of the foregoing, Applicants respectfully request that the Examiner withdraw

the claim objections.

Claims 2-53 were rejected under 35 U.S.C. § 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter of the

invention.

Applicants amend the claims to address the issues raised by the Examiner with respect

to claims 2, 7, 19, 46-47, 49-50, and 52 on pages 3-4 of the Office Action. Accordingly,

Applicants respectfully request that the Examiner withdraw the § 112, ¶ 2 rejection.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent

No. 7,136,357 to Soumiya; claims 2-6 and 52 stand rejected under 35 U.S.C. § 103(a) as

being unpatentable over Soumiya in view of U.S. Patent Application Publication No.

2002/0174246 to Tanay et al.; and remaining claims 7-51 and 53 stand rejected under 35

U.S.C. § 103(a) as being unpatentable over Soumiya in view of Tanay et al., and further in

view of respective additional references: U.S. Patent No. 6,590,867 to Ash et al., U.S. Patent

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No. 6,956,821 to Szviatovszki, U.S. Patent No. 7,310,341 to Prager et al., and U.S. Patent

No. 6,493,317 to Ma.  Applicants amend claim 1 to incorporate features that correspond to

those of claim 2, and respectfully traverse the rejections.

The Examiner conceded that Soumiya fails to disclose the features recited in claim

2—corresponding features of which are now incorporated in claim 1 and also recited in

independent claim 52—and relied upon Tanay et al. as a combining reference that allegedly

suggests these features.

In particular, the Examiner relied upon description in Tanay et al. of path priority and

class as alleged suggestion of the claimed quality guaranteed and quality non-guaranteed

route features.  And the Examiner alleged that

> "If priority is zero it is a non-quality [guaranteed] route
> and the user requests can be relayed by the network 110 or user
> interface 112." Page 8, lines 4-6 of the Office Action.

Applicants respectfully point out that the cited portions of Tanay et al. only include

description of a technique for determining traffic flow distribution with a distribution modeler

that assigns flow distribution by traffic class and time type.  Paragraph [0024] of Tanay et al.

As such, Tanay et al., as cited and relied upon by the Examiner—and correspondingly, the

proposed combination of Soumiya and Tanay et al.—would have, at most, suggested

modeling traffic load distribution by traffic class, and would have clearly failed to disclose or

suggest considerations and search for quality guaranteed and quality non-guaranteed paths.

The Examiner's allegation of a "zero priority" in view of Tanay et al. would only mean a

modeler assigning traffic load distribution to such "zero priority" in view of other

"priorities," and would not have suggested the claimed quality non-guaranteed path.  There

are no suggestions in the cited portions of Tanay et al. of any priority being quality

guaranteed or not.

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Thus, even assuming, _arguendo_, that it would have been obvious to one skilled in the

art at the time the claimed invention was made to combine <u>Soumiya</u> and <u>Tanay et al.</u>, such a

combination would still have failed to disclose or suggest,

> "[a] transmission bandwidth control device for
> controlling a transmission route for a flow in a network,
> comprising:
> a statistical information collecting unit for collecting
> pieces of statistical information from respective routers
> connected to the network;
> a network information database for storing the
> statistical information collected;
> a user request processing unit for accepting and
> processing a flow forwarding request from a user terminal;
> a route control unit for searching for a route
> corresponding to the request from the user terminal by
> referring to the network information database;
> a load sharing control unit for executing such a load
> sharing process as to generate router setting information for
> sharing a transmission load of the network by referring to the
> network information database; and
> a router control unit for setting a router based on the
> route information determined by the route control unit and on
> the router setting information generated by the load sharing
> control unit,
> wherein the route control unit includes <u>a quality
> guaranteed route searching module searching for quality
> guaranteed route information corresponding to the flow
> forwarding request for the forwarding quality guaranteed flow
> by referring to link statistical information concerning links
> between the respective routers from the network information
> database and a quality non-guaranteed route searching module
> searching for quality non-guaranteed route information
> corresponding to the flow forwarding request for the
> forwarding quality non-guaranteed flow, by referring to link
> statistical information concerning links between the respective
> routers from the network information database, the load
> sharing control unit executes the load sharing process by
> referring to the quality guaranteed route information and the
> quality non-guaranteed route information, and the router
> control unit sets the quality guaranteed route and the quality
> non-guaranteed route in accordance with the searched quality
> guaranteed route information and quality non-guaranteed route
> information,</u>" as recited in claim 1. (Emphasis added)

Accordingly, Applicants respectfully submit that claim 1, together with claims 3-6 dependent therefrom, is patentable over <u>Soumiya</u> and <u>Tanay et al.</u>, separately and in combination, for at least the foregoing reasons. Claim 52 incorporates features that correspond to those of claim 1 cited above, and is, therefore, patentable over the cited references for at least the same reasons. The Examiner cited the additional references to specifically address the additional features recited in dependent claims 7-51 and 53, which depend, directly or indirectly, from claim 1. As such, further combinations with these additional references would still have failed to cure the above-described deficiencies of <u>Soumiya</u> and <u>Tanay et al.</u>, even assuming, <u>arguendo</u>, that such further combinations would have been obvious to one skilled in the art at the time the claimed invention was made. Accordingly, Applicants respectfully submit that claims 7-51 and 53 are patentable over the cited references for at least the above-stated reasons.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,


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